

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HERMAN LEE BARTON, JR.,

Plaintiff,

v.

BINDER BROCK,

Defendant.

CASE NO. C15-1230-JCC-MAT

REPORT AND RECOMMENDATION

On July 1, 2015, plaintiff Herman Barton submitted to this Court for filing a civil rights complaint under 42 U.S.C. § 1983 in which he alleged that he was being denied effective assistance of counsel by the attorney appointed to represent him in his state court criminal proceedings. (*See* Dkt. 1.) Plaintiff failed to include with his submission either the filing fee or an application to proceed with this action *in forma pauperis*. (*See id.*) On August 5, 2015, the Clerk sent plaintiff a letter advising him that his submission was deficient and that he would have to submit either the entire filing fee or a completed application for *in forma pauperis* status on or before September 4, 2015, or risk dismissal of this action. (Dkt. 2.) The Clerk also sent plaintiff the appropriate *in forma pauperis* application form to complete. (*See id.*) To date, plaintiff has submitted neither the filing fee nor a completed application for leave to proceed *in forma*

1 *pauperis.*

2 As plaintiff has had ample time to comply with the filing fee requirement, but has failed
3 to do so, this Court recommends that the instant action be dismissed without prejudice for failure
4 to prosecute. A proposed order accompanies this Report and Recommendation.

5 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
6 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report
7 and Recommendation is signed. Failure to file objections within the specified time may affect
8 your right to appeal. Objections should be noted for consideration on the District Judge's
9 motions calendar for the third Friday after they are filed. Responses to objections may be filed
10 within **fourteen (14) days** after service of objections. If no timely objections are filed, the
11 matter will be ready for consideration by the District Judge on **October 16, 2015**.

12 DATED this 21st day of September, 2015.

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15 Mary Alice Theiler
16 United States Magistrate Judge
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